

UNITED STATES OF AMERICA
UNITED STATES COAST GUARD vs.
LICENSE No. 185 060
Issued to: William S. STRUDWICK

DECISION OF THE COMMANDANT ON APPEAL
UNITED STATES COAST GUARD

2311

William S. STRUDWICK

This appeal has been take in accordance with 46 CFR 5.30-15.

By order dated 9 February 1983, an Administrative Law Judge of the United States Coast Guard at Miami, Florida revoked Appellant's mariner's license upon finding proved the charge of "conviction for a narcotic drug law violation." Also on 9 February 1983 Appellant filed a Notice of Appeal from the Order of the Administrative Law Judge and a request for a temporary license. The Administrative Law Judge denied the request by his order of 15 February 1983.

BASES OF APPEAL

This appeal has been taken from the order of the Administrative Law Judge denying a temporary license. It is urged that the denial was erroneously based on a regulation existing in 1957 which no longer exists and a decision based on that regulation instead of on the current regulations.

OPINION

I agree that the Order Denying Request for a Temporary License is not sufficient in this case.

The Administrative Procedure Act requires that an agency rejection of an application "be accompanied by a brief statement of the grounds for denial." See 5 USC 555e. The grounds stated must, of course, be consistent with the applicable law and regulations.

The denial of the temporary license was based upon a pronouncement by the Commandant in 19 Federal Register 6678 on 16 October 1954 and Appeal Decision 982 (SEARCY) (3/8/57). The current criteria for granting temporary licenses or documents were published in 1974 and are set forth in 46 CFR 5.30-15(b) as follows:

"(1) Whether the service of the individual involved on board a vessel at the time of the request or immediately thereafter, is compatible with the requirements for

safety of life and property at sea.

(2) The individual's prior record."

If a request for a temporary license or document is denied, the statement of grounds for denial must be in terms of these criteria.

Since the criteria in the current regulation were not used in deciding whether to issue Appellant a temporary license, the request for a temporary license must be remanded to the Administrative Law Judge for reconsideration. If the request is again denied, the statement of the grounds for denial must discuss both criteria set forth in 46 CFR 5.30-15.

CONCLUSION

The order of the Administrative Law Judge denying a temporary license does not adequately support that denial. The request for the temporary license must be remanded for reconsideration in accordance with the above opinion.

ORDER

The order of the Administrative Law Judge dated 15 February 1983 denying Appellant's request for a temporary license is VACATED. The request for a temporary license is REMANDED for a new decision in accordance with the foregoing opinion.

J. S. GRACEY
Admiral, U. S. Coast Guard
Commandant

Signed at Washington, D. C., this 17th day of May 1983